

Appl. No. 09/809,444
Reply to Office Action of July 17, 2006

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REMARKS/ARGUMENTS

Reconsideration of the rejections set forth in the Office Action dated July 17, 2006 is respectfully requested. Claims 1-9, 12-24, and 27-30 appear to have been allowed. Claims 10, 11, 25, and 26 appear to have been rejected. Claim 28 has been cancelled. As such, claims 1-27, 29, and 30 are currently pending.

The Applicant respectfully requests clarification on the disposition of the claims, as there appears to be some inconsistency as to the status of the claims. On page 2 of the Office Action dated July 17, 2006, the Examiner has rejected claims 10, 11, 25, and 26, but has stated that claims 1-11 and 18-23 are allowed. It is noted that claims 12-17, 24, and 27-30 have not been addressed on page 2, and that claims 10 and 11 are indicated as both being rejected and being allowed. The "Office Action Summary" included with the Office Action dated July 17, 2006 indicates that claims 1-9, 12-24, and 27-30 have been allowed, and that claims 10, 11, 25, and 26 have been rejected. The disposition of the claims as set forth in the "Office Action Summary" appears to be consistent with the Examiner's rejections as set forth on page 2 of the Office Action dated July 17, 2006. Hence, the Applicant believes that statements made in the "Office Action Summary" regarding allowed claims and rejected claims is correct. However, clarification would be much appreciated.

Claim 28 has been cancelled for clarity, because it recites a computer readable medium that does not appear in its base claim. Claims 11 and 26 have been amended to remove the limitation of a data signal embodied in a carrier wave in a sincere effort to expedite the prosecution of the instant application.

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Rejections under 35 U.S.C. § 101

Claims 10, 11, 25, and 26 have been rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. The Examiner argues that claims 10, 11, 25, and 26 are not limited to tangible embodiments. It is respectfully submitted that just because a carrier wave may not be visible, it does not follow that the carrier wave is intangible. For instance, it is known that transmissions may occur in a wireless manner between cellular telephones. The transmissions include information that is data embodied in carrier waves. Hence, it is believed that carrier waves exist, and are not intangible. Hence, the computer readable medium recited in claims 10, 11, 25, and 26 is believed to cover substantially tangible elements.

Although the Applicant does not agree that claims 10, 11, 25, and 26 are not limited to tangible embodiments, the Applicant has removed the limitation of a carrier wave from claims 11 and 26 purely to expedite the prosecution of the instant application. The removal of the limitation of a carrier wave is not to be construed as an agreement with the Examiner's position, and the Applicant maintains the right to reintroduce such a limitation in any future continuation, continuation-in-part, or divisional patent application.

Allowable Subject Matter

It is not entirely clear to the Applicant which claims are allowed, as discussed above. However, as rejections have been formulated regarding only claims 10, 11, 25, and 26, it is believed that all remaining claims are allowable. The remaining claims that are believed to be allowable are claims 1-9, 12-24, and 27-30.

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Conclusion

For at least the foregoing reasons, the Applicant believes all the pending claims are in condition for allowance and should be passed to issue. If the Examiner feels that a telephone conference would in any way expedite the prosecution of the application, please do not hesitate to call the undersigned at (650) 694-5339.

Date: 17 Oct. 06

Respectfully submitted,

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